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25697 7590 08/08/2007 ROSS D. SNYDER & ASSOCIATES, INC. PO BOX 164075 AUSTIN, TX 78716-4075			EXAMINER CHOI, PETER H	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/834,834	Applicant(s) PARMASAD ET AL.	
	Examiner Peter Choi	Art Unit 3623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 March 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The following is a **NON-FINAL** office action upon examination of application number 09/834,834. Claims 1-39 are pending in the application and have been examined on the merits discussed below.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1 – 3, 5, 7, 9 - 10, 16, 18 - 24, 26 - 28, 33, and 35 - 36 are rejected under 35 U.S.C. 102(b) as being anticipated by Bayer et al. (U.S Patent #6,311,190).

As per claim 1, Bayer et al. teaches a method for determining a voting result for a voting issue, comprising:

providing notification of a voting website to a plurality of eligible voters, wherein the notification is provided via an email message sent to each eligible voter of the plurality of eligible voters, wherein the notification provides the plurality of eligible voters with access to the voting website (**with a hyperlink to the URL**) [Column 13, lines 56-58 and Column 18, lines 55-60];

for each eligible voter of the plurality of eligible voters that accesses the voting website, validating identity of the eligible voter to produce a validated voter (The

(registrant is authenticated if the user name and password entered matches the retrieved nickname and password (step 242); cookies are used by network server 12 to determine if the voter has already voted in the campaign; if a record found in the VoteLog table and a VoteCookie matches the Voting Digital ID associated with present survey and voting campaign, the voter cannot vote again in step 70)
[Column 14, lines 28-32, 42-46, 58-63, Column 28, lines 13-14; Figure 4];

receiving voting information **(answers to survey questions)** from validated voters [Claim 1]; and

compiling the voting information **(adding received answers to information stored in a database)** from the validated voters to produce the voting result [Claim 5].

As per claims 2 and 19, Bayer et al. teaches the method of claim 1, wherein the email message provided to each eligible voter includes a hyperlink **(URL)** to the voting website [Column 13, lines 56-58].

As per claims 3 and 20, Bayer et al. teaches a method where registration information about users, such as their email address **(element 168 of Figure 15)**, can be obtained from a database **(element 15 of Figure 15)** [Column 19, lines 24-32] and may be used generate an email message to eligible voters **(solicit voters to a particular voting campaign by e-mail with a hyperlink to the URL of a voting campaign)** using the email address retrieved [Column 18, lines 58-60].

As per claims 5 and 24, Bayer et al. teaches the method of claim 1 wherein providing the plurality of eligible voters with access to the voting website further comprises:

sending an email message to potential voters (**solicit voters to a particular voting campaign {through invitation 57b}**) by e-mail with a hyperlink to the URL of a voting campaign) [Column 13, lines 56-58, Column 18, lines 45-60] wherein the email message provided to each eligible voter includes a hyperlink (**URL**) to the voting website [Column 13, lines 56-58, Column 18, lines 45-63];

receiving consent (**registration**) information corresponding to at least a portion of the plurality of potential voters based on responses (**user name, password and email address**) provided by the at least a portion of the plurality of potential voters via the consent (registration campaign) website [Column 19, lines 24-30]; and

determining the plurality of eligible voters (**authenticating validation**) from the at least a portion of the plurality of potential (**registered**) voters based on the consent information (**registration information; user name and password entered matches the retrieved nickname and password of a registered user**) [Column 28, lines 13-14].

As per claims 7 and 26, Bayer et al. teaches the method of claim 1, wherein validating identify of the eligible voter to produce a validated voter further comprises:

receiving a user identity (**step 240**) from the eligible voter;

receiving a password (**step 240**) from the eligible voter;

comparing the password with a stored password corresponding to the user identity **(step 242)** to produce a comparison result, wherein when the comparison result is favorable, the eligible voter is validated to produce a validated voter [Column 28, lines 5-25].

As per claims 9 and 27, Bayer et al. teaches the method of claim 1, wherein validating identity of the eligible voter to produce a validated voter further comprises:

detecting an electronic certificate **(VoteCookie, a Voting Digital ID generated by the network server 12 used for determining when a voter has voted previously for a survey in a voting campaign)** stored on a host device **(host computer)** associated with the eligible voter; and

comparing the electronic certificate **(VoteCookie)** with a validation certificate **(VoteLog table)** stored in a database to produce a comparison result, wherein when the comparison result is favorable **(no voting record found in the VoteLog table)**, the eligible voter is validated **(indicating that the user has not yet voted)** to produce a validated voter. [Column 10, lines 26-30 and Column 14, lines 14-50]

As per claim 10, Bayer et al. teaches the method of claim 1, wherein compiling the voting information further comprises storing the voting information **(answers to survey questions received from each voter)** in a database [Claim 5].

As per claims 16 and 33, Bayer et al. teaches the method of claim 1 wherein providing the plurality of eligible voters with access to the voting website further comprises:

providing a consent notification (**sending an email message**) to a potential voter of a plurality of potential voters, wherein the consent notification notifies the potential voter of the consent website (**solicit voters to a particular voting campaign {via invitation 57b} by e-mail with a hyperlink to the URL of a voting campaign; embedded hyperlink to a particular URL of an associated registration campaign may be provided**) [Column 12, lines 22-24, Column 13, lines 56-58, Column 18, lines 45-63];

receiving consent (**registration**) information corresponding to at least a portion of the plurality of potential voters based on responses (**user name, password and email address**) provided by the at least a portion of the plurality of potential voters via the content (**registration**) website [Column 19, lines 24-30]; and

determining the plurality of eligible voters (**authenticating validation**) from the at least a portion of the plurality of potential (**registered**) voters based on the consent (**registration**) information [Column 28, lines 13-14].

As per claim 18, Bayer et al. teaches a voting management processor, comprising:

a processing module (**computer system represented by network server 12**);
and

memory (**element 14 of Figure 1**) operably coupled to the processing module, wherein the memory stores operating (**programmed**) instructions that, when executed by the processing module, cause the processing module to perform functions that include:

providing notification of a voting website to a plurality of eligible voters, wherein the notification is provided via an email message sent to each eligible voter of the plurality of eligible voters, wherein the notification provides the plurality of eligible voters with access to the voting website (**with a hyperlink to the URL**) [Column 13, lines 56-58 and Column 18, lines 55-60];

for each eligible voter of the plurality of eligible voters that accesses the voting website, validating (**authenticating**) identity of the eligible (**registered**) voter to produce a validated voter (**step 242**) [Column 28, lines 13-14];

receiving voting information (**answers to survey questions**) from validated voters [Claim 1]; and

compiling the voting information (**adding received answers to information stored in a database**) from the validated voters to produce the voting result [Claim 5].

As per claim 21, Bayer et al. teaches the voting management processor of claim 20, wherein the voter database (**database 15 of Figure 1 storing voting information, such as VoteLog table 44 that defines a log for each voter with the voting site of system 10 and Tally table 46 records a tally of the vote totals for each of the answers to the questions for each survey; EMAIL ADDRESS 168; The registration**

campaign 162 includes the E-mail address of the registrant 168) is stored in the memory (element 14 of Figure 1) [Figures 1 and 15, and Column 5, lines 12-15, Column 6, lines 66-67, Columns 7-10, Column 19, lines 25-28].

As per claim 22, Bayer et al. teaches the voting management processor of claim 20, wherein the voter database (**database 15**) is accessed by the voting management processor (**computer system operating in accordance with software; database 15 is stored on memory 14, and transaction server 16 is connected to the memory 14 which enables the network server 12 to access and update records in tables of the database 15. The network server 12 enables network connections to computers 18 through a network 20, such as the Internet or World Wide Web; each of the computers 18 represents a network client when connected to network server 12, such that the network server 12 performs tasks at the commands of the network client) over a network (network server 12 and network 20; network server 12 is coupled to transaction server 16; administrator computer 17 connects to network server 12 via network 20; The network server 12 can send data representing transactions to the transaction server 16 to either access (read, retrieve, search, or query) records in a particular table, or update (add, modify or delete) a record in a particular table of the database; An administrator computer 17, like computers 18, can connect to the network server 12, via network 20. Alternatively, the administrator computer 17 can connect directly to the network server 12 by a LAN 19 to which both the network server 12 and administrator**

computer 17 are connected) [Figure 1; Column 5, lines 10-18, 25-28, 39-40, 42-44, Column 5, line 65 – Column 6, line 2, Column 6, lines 11-22].

As per claim 23, Bayer et al. teaches the voting management processor of claim 20, wherein the memory stores additional **(programmed)** instructions such that the functions performed by the processing module **(network server 12 operates in accordance with software representing programmed instructions providing a voting site 22 and a registration site 24 on network 20; transaction server 16 represents a computer system connected to memory 14 and programmed in accordance with database software; The system of Bayer et al. embodies a system that includes a programmed computer system representing at least one network server which provides an addressable voting site and registration site on the network, and a database storing voting information for dynamically building surveys. A computer of each of the voters is programmed with network browser software such that a connection to the network server over the network can be established at one of the multiple Universal Resource Locators addressing the voting site)** include providing a plurality of hyperlinks on the voting website, wherein a first hyperlink of the plurality of hyperlinks directs an eligible voter to a voting page **(URL of a registration/voting campaign)** and a second **(embedded)** hyperlink of the plurality of hyperlinks directs the user to documentation related to the voting issue **(URL of an associated campaign)** [Column 2, lines 38-54, Column 5, lines 42-44, 59-61 and Column 18, lines 49-55].

As per claim 28, Bayer et al. teaches the voting management processor of claim 18, wherein compiling the voting information further comprises storing the voting information **(whether or not a voter voted and who they voted for)** in the memory **(multiple records in tables of database 15 store voting information. The voting information includes records stored in eighteen tables 30-47, as shown in Figures 3A-3R. The VoteLog table 44 defines a log for each voter with the voting site)** [Column 6, line 66 – Column 7, line 24, Column 14, lines 36-50, Figure 3O].

As per claim 35, Bayer et al. teaches a voting system, comprising:

a first network **(network 20 of Figure 1)**;

a voting server **(network server 12 of Figure 1)** operably coupled to the first network; and

a plurality of clients **(computer 18 of Figure 1)** operably coupled to the first network, where each of the plurality of clients provides access to the voting server to a portion of a plurality of potential voters, wherein the voting server performs functions that include:

receiving consent **(registration)** information corresponding to at least a portion of the plurality of potential voters based on responses **(user name, password and email address)** provided by the at least a portion of the plurality of potential voters via the content **(registration)** website [Column 19, lines 24-30];

determining the plurality of eligible voters **(authenticating validation)** from the at least a portion of the plurality of potential **(registered)** voters based on the consent **(registration)** information [Column 28, lines 13-14];

sending voting notification email message to the plurality of eligible voters
(solicit voters to a particular voting campaign by e-mail with a hyperlink to the URL of a voting campaign) [Column 18, lines 45-60], wherein the voting notification email messages provide access to a voting website **(an embedded hyperlink to a particular URL of an associated registration campaign may be provided in the results page provided by the voting site, such that a voter at the voting site may link to the associated registration campaign at the registration site)** managed by the voting server **(voting site 22, registration site 24; in addition to enabling voting on surveys in multiple campaigns at voting site 22, system 10 allows voters, or other registrants, to register under one of multiple registration campaigns through a registration questionnaire at registration site 24)** [Column 13, lines 56-58, Column 18, lines 45-60];

for each eligible voter of the plurality of eligible voters that accesses the voting website, validating **(authenticating)** identity of the eligible **(registered)** voter to produce a validated voter **(step 242)** [Column 28, lines 13-14];

receiving voting information **(answers to survey questions)** from validated voters [Claim 1]; and

compiling the voting information **(adding received answers to information stored in a database)** from the validated voters to produce the voting result [Claim 5].

As per claim 36, Bayer et al. teaches the voting system of claim 35 wherein the functions performed by the voting server further include:

sending an email message to potential voters (**solicit voters to a particular voting campaign by e-mail with a hyperlink to the URL of a voting campaign**)
[Column 18, lines 45-60].

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 4, 6, 8, 11 – 15, 17, 25, 29 – 32, 34, and 37 – 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bayer et al.

As per claim 4, Bayer et al. teaches the method of claim 1 further comprising providing a hyperlink on the voting website, wherein a first hyperlink of the plurality of hyperlinks directs an eligible voter to a voting page (**URL of a registration/voting campaign**) and a second (**embedded**) hyperlink of the plurality of hyperlinks directs the user to documentation related to the voting issue (**URL of an associated campaign**)
[Column 18, lines 49-55].

Although the hyperlinks of Bayer et al. do not explicitly direct the user to documentation related to a voting issue, Official Notice is taken that using hyperlinks to providing additional related documentation is old and well known in the art. Therefore, it

would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Bayer et al. to include the step of providing additional related documentation, because doing so enhances the voting campaign sites of Bayer et al. by providing a central repository for voters to obtain information needed to make informed decisions.

As per claims 6, 17, 25 and 34, Bayer et al. teaches the method of claim 5, consent information includes consent to vote electronically and consent to receive documentation electronically **{Bayer et al. teaches user participation in surveys over a computer-based network; thus, the user registration to participate in said surveys is indicative of the user's consent to receive electronic documentation, such as survey questions}**, wherein at least one hyperlink is provided on the voting website, wherein a first hyperlink directs an eligible voter to a voting page **(URL of a registration/voting campaign)** when the eligible voter has consented to vote electronically **{the act of registration is deemed to be an act of consenting to electronic voting}**, and a second **(embedded)** hyperlink directs the eligible voter to documentation related to the voting issue **(URL of an associated campaign)** when the eligible voter has consented to receive documentation electronically [Column 18, lines 49-55].

As per claim 8, although Bayer et al. authenticates users upon receiving user name and password **(network server sends a page to the registrant requesting the registrant to enter their user name and password, step 240. The registrant is**

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authenticated if the user name and password entered matches the retrieved nickname and password, step 242) [Column 28, lines 9-15], Bayer et al. does not explicitly teach that this is performed using a secure data communication protocol.

However, Official Notice is taken that the use of secure data communication protocols is old and well known in the computing arts. For example, the Secure Sockets Layer (SSL) and Hypertext Transfer Protocol over Secure Socket Layer (HTTPS) protocols are used to encrypt electronic data communications. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Bayer et al. to use a secure data communication protocol because doing so enhances Bayer et al. by providing secure communications for authentication and encrypting communication in security-sensitive communication such as logons or voting.

As per claims 11 and 29, Bayer et al. teaches the storing the voting information **(answers to survey questions received from each voter)** [Claim 5], generating of email messages **(solicit voters to a particular voting campaign by e-mail with a hyperlink to the URL of a voting campaign)** [Column 18, lines 58-60], and tallying votes to determine winners **(received answers to the questions are added to records in the database tallying the totals for each response... a summary of the results of the survey is then constructed and transmitted to the voter's computer)** [Abstract], but does not explicitly teach the step of sending email messages including voting information corresponding to at least one eligible voter to a transfer agent, or the

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compiling of voting information (to produce the voting result) being performed by a transfer agent.

However, Official Notice is taken that the use of transfer agents to oversee the polling and counting of votes in an election are old and well known in the art. For example, banks and voting officials act as proxies that administer elections, tally votes, and determine winners. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Bayer et al. to include emailing messages including voting information to transfer agents for compilation and determination of a winner, because doing so enhances Bayer et al. by ensuring accuracy and impartiality and so that received votes can be tallied and verified and a winner can be determined while ensuring that ballots are not tampered with in case of a need of a recount.

As per claims 12 and 30, Bayer et al. is silent regarding the encryption of an email message prior to sending the at least one transfer agent email message to the transfer agent.

However, Official Notice is taken that email encryption is old and well known in the art. Therefore, it would have been obvious to one of ordinary skill to modify the teachings of Bayer et al. by including the encryption of email messages, because doing

so enhances Bayer et al. by ensuring voter privacy and preventing tampering with election results.

As per claims 13 and 31, Bayer et al. teaches the storing the voting information **(answers to survey questions received from each voter)** [Claim 5], generating of email messages **(solicit voters to a particular voting campaign by e-mail with a hyperlink to the URL of a voting campaign)** [Column 18, lines 58-60], and tallying votes to determine winners **(received answers to the questions are added to records in the database tallying the totals for each response... a summary of the results of the survey is then constructed and transmitted to the voter's computer)** [Abstract], but does not explicitly teach the step of sending email messages including voting information corresponding to at least one eligible voter to a transfer agent or disclosing default voting information corresponding to eligible voters that failed to vote using the voting website.

However, Official Notice is taken that the use of transfer agents to oversee the polling and counting of votes in an election are old and well known in the art. For example, banks and voting officials act as proxies that administer elections, tally votes, and determine winners. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Bayer et al. to include emailing messages including voting information to transfer agents for compilation and determination of a winner, because doing so enhances Bayer et al. by ensuring accuracy and impartiality and so that received votes can be tallied and verified and a

winner can be determined while ensuring that ballots are not tampered with in case of a need of a recount.

Further, Official Notice is taken that absentee ballots are an old and well known mechanism in the voting arts used by registered voters who are unable to vote at an official polling station. For example, postal voting may be used to count the votes cast by registered voters who are unable to vote via a voting website on the Internet. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Bayer et al. to include voting information corresponding to eligible voters that failed to vote using the voting website, because doing so expands the ability of Bayer et al. to collect voter feedback by improving voter turnout and increasing the amount of feedback in determining a winner.

As per claims 14 and 32, Bayer et al. teaches the storing the voting information in a database **(answers to survey questions received from each voter)** [Claim 5], and generating email messages **(solicit voters to a particular voting campaign by e-mail with a hyperlink to the URL of a voting campaign)** [Column 18, lines 58-60], but does not explicitly teach the step of transferring the contents of a database to a transfer agent.

However, Official Notice is taken that the use of transfer agents to oversee the polling and counting of votes in an election are old and well known in the art. For

example, banks and voting officials act as proxies that administer elections, tally votes, and determine winners. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Bayer et al. to include emailing messages including voting information to transfer agents for compilation and determination of a winner, because doing so enhances Bayer et al. by ensuring accuracy and impartiality and so that received votes can be tallied and verified and a winner can be determined while ensuring that ballots are not tampered with in case of a need of a recount.

As per claim 15, although Bayer et al. teaches the use of a network (**network 20; the network is the Internet or World Wide Web, but other wide area networks may be used**) [Column 5, lines 17-19] to send email messages (**invitation 57**), [Figures 1, 10] and provide access to websites on a network (**network server 12 operates in accordance with software representing programming instructions providing a voting site 22 and a registration site 24 on network 20**) [Column 5, lines 42-44], but does not explicitly disclose that said email to voters is delivered via an internal network, that said website access is provided via the internal network, or that email messages to the transfer agent are delivered via an external network.

However, Official Notice is taken that it is old and well known in the computing arts that email and website access may be provided using internal and/or external networks. For example, an intranet (i.e., internal) network may be a localized version of the Internet, confined to an organization, whereas an external network (i.e., extranets,

the Internet), may be accessed by users spanning multiple organizations. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Bayer et al. to use internal networks to provide website access, because doing so limits access to websites to local users of a network (in an internal network), which prevents participation by unauthorized voters from external networks. Similarly, it would have been obvious to one of ordinary skill in the art at the time of invention to use internal networks to provide email to voters located within a local network to limit voter participation to authorized voters, and use external networks to email parties such as transfer agents located outside the internal network, because doing so enhances Bayer et al. by allowing users to provide access to information only to specifically authorized parties located outside the internal network.

As per claim 37, Bayer et al. teaches the voting system of claim 35 further comprising:

a voting server (**network server 12 of Figure 1**) compiles the voting information such that compiling includes:

generating at least one email message (**solicit voters to a particular voting campaign by e-mail**) and storing voting information in a database (**answers to survey questions received from each voter**) [Claim 5].

Bayer et al. does not explicitly teach that transfer agents are sent emails voting information corresponding to eligible voters for compilation and producing the voting result.

However, Official Notice is taken that the use of transfer agents to oversee the polling and counting of votes in an election are old and well known in the art. For example, banks and voting officials act as proxies that administer elections, tally votes, and determine winners. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Bayer et al. to include emailing messages including voting information to transfer agents for compilation and determination of a winner, because doing so enhances Bayer et al. by ensuring accuracy and impartiality and so that received votes can be tallied and verified and a winner can be determined while ensuring that ballots are not tampered with in case of a need of a recount.

Bayer et al. is also silent regarding the presence of a second network coupled to the voting server and a transfer agent being operably coupled to that second network.

However, Official Notice is taken that it is old and well known in the computing arts that email and website access may be provided using internal and/or external networks. For example, an intranet (i.e., internal) network may be a localized version of the Internet, confined to an organization, whereas an external network (i.e., extranets, the Internet), may be accessed by users spanning multiple organizations. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to use external networks coupled to the network of Bayer et al., because doing so enhances

Bayer et al. by allowing users to provide access to information by email only to specifically authorized parties located outside the existing network.

As per claim 38, Bayer et al. teaches a voting system wherein the first network is a secure internal network **{network 20 requires authentication of users to access voting site 22}**.

Bayer et al. does not explicitly teach a second, external network, or that the voting information included in the at least one transfer agent email message is encrypted prior to being sent to the transfer agent.

However, Official Notice is taken that it is old and well known in the computing arts that email and website access may be provided using internal and/or external networks. For example, an intranet (i.e., internal) network may be a localized version of the Internet, confined to an organization, whereas an external network (i.e., extranets, the Internet), may be accessed by users spanning multiple organizations. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to use external networks coupled to the network of Bayer et al., because doing so enhances Bayer et al. by allowing users to provide access to information by email only to specifically authorized parties located outside the existing network.

Further, Official Notice is taken that email encryption is old and well known in the art. Therefore, it would have been obvious to one of ordinary skill to modify the

teachings of Bayer et al. by including the encryption of email messages, because doing so enhances Bayer et al. by ensuring voter privacy and preventing tampering with election results.

As per claim 39, Bayer et al. teaches the step of a broker server (**network server 12**) collecting voting information from a plurality of broker clients (**registered voters**), and compiling said collected voting information to produce the voting result (**received answers to the questions are added to records in the database tallying the totals for each response... a summary of the results of the survey is then constructed and transmitted to the voter's computer**) [Abstract]

Bayer et al. does not explicitly teach a second, external network used to send (i.e., forward) voting information to the transfer agent in the at least one transfer agent email message or the use of a transfer agent to compile the voting information in the at least one transfer agent email message with the broker client voting information to produce the voting result.

However, Official Notice is taken that it is old and well known in the computing arts that email and website access may be provided using internal and/or external networks. For example, an intranet (i.e., internal) network may be a localized version of the Internet, confined to an organization, whereas an external network (i.e., extranets, the Internet), may be accessed by users spanning multiple organizations. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to use

external networks coupled to the network of Bayer et al., because doing so enhances Bayer et al. by allowing users to provide access to information by email only to specifically authorized parties located outside the existing network.

Further, Official Notice is taken that the use of transfer agents to oversee the polling and counting of votes in an election are old and well known in the art. For example, banks and voting officials act as proxies that administer elections, tally votes, and determine winners. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Bayer et al. to include emailing messages including voting information to transfer agents for compilation and determination of a winner, because doing so enhances Bayer et al. by ensuring accuracy and impartiality and so that received votes can be tallied and verified and a winner can be determined while ensuring that ballots are not tampered with in case of a need of a recount.

Response to Arguments

8. Applicant's arguments filed March 9, 2007 have been fully considered but they are not persuasive.

As per claim 1, Applicant argues that Bayer et al. fails to anticipate "for each eligible voter of the plurality of eligible voters that accesses the voting website, validating identity of the eligible voter to produce a validated voter". Applicant also

argues that Bayer not only fails to disclose, but also teaches away from the claimed invention as set forth in claim 1.

The Examiner respectfully disagrees. Bayer et al. is a system for conducting surveys to voters in multiple different languages and registering voters over a network such as the Internet [abstract]. Bayer et al. also teaches, on Column 28, lines 13-14, "The registrant is authenticated if the user name and password entered matches the retrieved nickname and password (step 242)". The Examiner asserts that "registrant" is a label used to refer to eligible voters that access the voting website. Thus, the Examiner asserts that Bayer et al. does indeed teach the step of validating the identity of eligible voters to produce a validated voter by authenticating registered voters (i.e., registrants).

As per claims 5 and 24, Applicant argues that Bayer et al. fails to disclose "sending a consent email message to each potential voter of a plurality of potential voters, wherein the consent email message includes a hyperlink to a consent website". Applicant argues that Bayer teaches away from "the voting website" and "the consent (registration campaign) website" disclosing a "consent website" in accordance with the subject matter of claims 5 and 24.

The Examiner respectfully disagrees. As per page 3, lines 14-20 of the Applicant's specification, "The consent email message includes a hyperlink (URL) to a

consent website, where potential voters can access the consent website to provide consent information.... The consent information can include consent to receive electronic information regarding the voting decision as well as consent to vote electronically". Bayer et al. teaches the step of soliciting voters to a particular voting campaign by e-mail with a hyperlink to the URL of a voting campaign via invitation 57b [Column 13, lines 56-58]. The Examiner asserts that voters who register for a voting campaign through the hyperlink provided in invitation 57b have given their consent to vote electronically, as evidenced by their registration; therefore, the Examiner asserts that Bayer et al. does indeed teach the step of sending a consent email message including a hyperlink to a consent website (i.e., invitation 57b) to each potential voter of a plurality of potential voters, and receiving consent information (i.e., registrant consent to vote electronically, as evidenced by their registration for a campaign).

Bayer et al. also teaches the step of allowing voters, or other registrants, to register under one of multiple registration campaigns at registration site 24. Similar to a voting campaign, each registration campaign has an assigned URL. Registration information about voters may be used to later solicit voters to a particular voting campaign, such as by E-mail with a hyperlink to the URL of a voting campaign [Column 18, lines 49-63]. The Examiner asserts that voters and registrants who register for a voting campaign through the hyperlink provided in e-mail have given their consent to vote electronically, as evidenced by their registration at registration site 24; thus, registration site 24 is analogous to the claimed "consent website". Therefore, the

Examiner asserts that Bayer et al. does not teach away from a consent website, but does indeed teach a "consent website" in accordance with the invention as set forth in claims 5 and 24.

As per claims 16 and 33, Applicant argues that Bayer et al. teaches away from "the URL of a voting campaign" and "a registration campaign" disclosing a "consent website" in accordance with the claimed invention as set forth in claims 16 and 33.

The Examiner respectfully disagrees. As per page 3, lines 14-20 of the Applicant's specification, "The consent email message includes a hyperlink (URL) to a consent website, where potential voters can access the consent website to provide consent information.... The consent information can include consent to receive electronic information regarding the voting decision as well as consent to vote electronically". Bayer et al. teaches the step of soliciting voters to a particular voting campaign by e-mail with a hyperlink to the URL of a voting campaign via invitation 57b [Column 13, lines 56-58]. Bayer et al. also teaches the step of allowing voters, or other registrants, to register under one of multiple registration campaigns at registration site 24. Similar to a voting campaign, each registration campaign has an assigned URL. Registration information about voters may be used to later solicit voters to a particular voting campaign, such as by E-mail with a hyperlink to the URL of a voting campaign [Column 18, lines 49-63]. The Examiner asserts that voters and registrants who register for a voting campaign through the hyperlink provided in e-mail have given their consent

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to vote electronically, as evidenced by their registration at registration site 24; thus, registration site 24 is analogous to the claimed "consent website". Therefore, the Examiner asserts that Bayer et al. does not teach away from a consent website, but does indeed teach a "consent website" in accordance with the invention as set forth in claims 16 and 33.

As per claim 18, Applicant argues that Bayer et al. fails to disclose "for each eligible voter of the plurality of eligible voters that accesses the voting website, validating identity of the eligible voter to produce a validated voter". Applicant argues that Bayer not only fails to disclose, but also teaches away from the claimed invention as set forth in claim 18.

The Examiner respectfully disagrees. Bayer et al. is a system for conducting surveys to voters in multiple different languages and registering voters over a network such as the Internet [abstract]. Bayer et al. also teaches, on Column 28, lines 13-14, "The registrant is authenticated if the user name and password entered matches the retrieved nickname and password (step 242)". The Examiner asserts that "registrant" is a label used to refer to eligible voters that access the voting website. Thus, the Examiner asserts that Bayer et al. does indeed teach the step of validating the identity of eligible voters to produce a validated voter by authenticating registered voters (i.e., registrants).

As per claim 21, Applicant argues that Bayer et al. fails to disclose “wherein the voter database is stored in the memory”. Applicant argues that Bayer et al. not only fails to anticipate but also teaches away from the claimed invention as set forth in claim 21.

The Examiner respectfully disagrees. Figure 1 of Bayer et al. shows that database 15 is embedded within memory 14. Furthermore, Bayer et al. discloses that memory 14 stores database 15 [Column 5, line 12] and that multiple records in tables of database 15 store voting information [Column 6, lines 66-67], which includes the email address of registrants (EMAIL ADDRESS 168; The registration campaign 162 includes the E-mail address of the registrant 168) [Figure 15, Column 19, lines 25-28]. Therefore, the Examiner asserts that Bayer et al. does indeed teach a voter database stored in the memory.

As per claim 22, Applicant argues that Bayer et al. fails to disclose “wherein the voter database is accessed by the voting management processor over a network”.

The Examiner respectfully disagrees. Bayer et al. teaches that database 15 (voter database) is stored on memory 14, and transaction server 16 is connected to the memory 14 which enables the network server 12 to access and update records in tables of the database 15. The network server 12 enables network connections to computers 18 through a network 20, such as the Internet or World Wide Web [Column 5, lines 10-18]. The network server 12 enables network connections to computers 18 through a

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network 20 [Column 5, lines 15-16]. The network server 12 can send data representing transactions to the transaction server 16 to either access (read, retrieve, search, or query) records in a particular table, or update (add, modify or delete) a record in a particular table of the database [Column 5, line 65 – Column 6, line 2]. An administrator computer 17, like computers 18, can connect to the network server 12, via network 20. Alternatively, the administrator computer 17 can connect directly to the network server 12 by a LAN 19 to which both the network server 12 and administrator computer 17 are connected [Column 6, lines 15-22, Figure 1]. Thus, the Examiner asserts that network server 12 can access database 15 via transaction server 16, and administrator computer 17 can access network server 12 and transaction server 16 via LAN 19.

As per claim 23, Applicant argues that Bayer et al. does not teach “software representing programmed instructions” being stored in “memory 14”, and thus can not be showed to be anticipated by Bayer et al.

The Examiner respectfully disagrees. Bayer et al. teaches that **network server 12 operates in accordance with software representing programmed instructions** [Column 5, lines 42-44] and that transaction server 16 represents a computer system connected to memory 14 and **programmed in accordance with database software** [Column 5, lines 59-61]. The system of Bayer et al. embodies a system that includes a **programmed computer system** representing at least one network server which provides an addressable voting site and registration site on the network, and a database

storing voting information for dynamically building surveys. A computer of each of the voters is **programmed with network browser software** such that a connection to the network server over the network can be established at one of the multiple Universal Resource Locators addressing the voting site [Column 2, lines 38-54]. Bayer et al. also teaches that memory 14 is a memory storage unit, such as a disk array. Other types of memory storage units may also be used, such as the hard disk drive of the computer system providing transaction server 16 [Column 6, lines 11-14]. The Examiner asserts that programmable instructions are encoded onto memory and are executed by a computer processor to enable a computer to perform a plurality of steps, such as building a database and accessing, updating, and maintaining records of said database [Column 5, line 59 – Column 6, line 10]. Thus, the Examiner asserts that Bayer et al. does indeed teach programmed instructions stored in memory.

As per claim 28, Applicant argues that Bayer et al. does not disclose the claimed invention as set forth in claim 28. Applicant submits that memory 14, as disclosed by Bayer et al. does not comprise the VoteLog table cited by the Examiner.

The Examiner respectfully disagrees. Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

Applicant's arguments do not comply with 37 CFR 1.111(c) because they do not clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. Further, they do not show how the amendments avoid such references or objections.

Furthermore, Bayer et al. teaches that multiple records in tables of database 15 store voting information. The voting information includes records stored in eighteen tables 30-47, as shown in Figures 3A-3R. The VoteLog table 44 defines a log for each voter with the voting site [Column 6, line 66 – Column 7, line 24, Figure 3O]. If memory 14 stores database 15, and database 15 stores voting information, then memory 14 stores voting information. Columns 7-10 explain the contents of the voting information stored. Specifically, "The VoteLog table 44 defines a log for each voter with the voting site of system 10" (Column 7, lines 23-24), and "The Tally table 46 records a tally of the vote totals for each of the answers to the questions for each survey" (Column 7, lines 26-28). Therefore, the Examiner asserts that Bayer et al. teaches a system where a database compiles a list of all voters who have voted in a specific voting campaign, along with their voting selection, thus teaching the step of storing voting information in memory.

As per claim 35, Applicant argues that Bayer et al. fails to disclose "sending voting notification email messages to the plurality of eligible voters, wherein the voting

notification email messages provide access to a voting website managed by the voting server".

The Examiner respectfully disagrees. Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

Applicant's arguments do not comply with 37 CFR 1.111(c) because they do not clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. Further, they do not show how the amendments avoid such references or objections.

Furthermore, Bayer et al. teaches the step of soliciting voters to a particular voting campaign by e-mail with a hyperlink to the URL of a voting campaign via invitation 57b [Column 13, lines 56-58]. Bayer et al. also teaches the step of allowing voters, or other registrants, to register under one of multiple registration campaigns at registration site 24. Similar to a voting campaign, each registration campaign has an assigned URL. Registration information about voters may be used to later solicit voters to a particular voting campaign, such as by E-mail with a hyperlink to the URL of a voting campaign [Column 18, lines 49-63]. The Examiner asserts that the hyperlink included in the e-mail sent to voters provides access to the voting campaign website

(i.e., the URL of a voting campaign) managed by a voting server (network server 12, which hosts voting site 22 and is connected to network client computer of the voter/registrant 18 via network 20) [Figure 1, 10]. Therefore, the Examiner asserts that Bayer et al. does indeed teach the step of sending voting notification email messages providing access to a voting website managed by the voting server to the plurality of eligible voters.

As per claim 36, Applicant argues that Bayer et al. fails to disclose a network server "sending consent email messages to the plurality of potential voters".

The Examiner respectfully disagrees. Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

Applicant's arguments do not comply with 37 CFR 1.111(c) because they do not clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. Further, they do not show how the amendments avoid such references or objections.

Furthermore, as per page 3, lines 14-20 of the Applicant's specification, "The consent email message includes a hyperlink (URL) to a consent website, where

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potential voters can access the consent website to provide consent information.... The consent information can include consent to receive electronic information regarding the voting decision as well as consent to vote electronically". Bayer et al. teaches the step of soliciting voters to a particular voting campaign by e-mail with a hyperlink to the URL of a voting campaign via invitation 57b [Column 13, lines 56-58]. Bayer et al. also teaches the step of allowing voters, or other registrants, to register under one of multiple registration campaigns at registration site 24. Similar to a voting campaign, each registration campaign has an assigned URL. Registration information about voters may be used to later solicit voters to a particular voting campaign, such as by E-mail with a hyperlink to the URL of a voting campaign [Column 18, lines 49-63]. The Examiner asserts that the e-mail invitation to voting campaigns is analogous to the claimed "consent email messages". As seen in Figure 10, invitation 57 is sent via network 20 to voter network client 18. Figure 1 shows that voter network client 18 is also connected to network server 12 via network 20. Therefore, the Examiner asserts that Bayer et al. does indeed teach the step of a network server sending consent email messages to the plurality of eligible voters.

Official Notice

Applicant has attempted to challenge the Examiner's taking of Official Notice in the Office Action mailed December 6, 2005. There are minimum requirements for a challenge to Official Notice:

(a) In general, a challenge, to be proper, must contain adequate information or arguments so that *on its face* it creates a reasonable doubt regarding the circumstances justifying the Official Notice

(b) Applicants must seasonably traverse (challenge) the taking of Official Notice as soon as practicable, meaning the next response following an Office Action. If an applicant fails to seasonably traverse the Official Notice during examination, his right to challenge the Official Notice is waived.

Applicant has not provided adequate information or arguments so that *on its face* it creates a reasonable doubt regarding the circumstances justifying the Official Notice. Therefore, the presentation of a reference to substantiate the Official Notice is not deemed necessary. The Examiner's taking of Official Notice has been maintained.

Bald statements such as, "the Examiner has not provided proof that this element is well known" or "applicant disagrees with the Examiner's taking of Official Notice and hereby requests evidence in support thereof", are not adequate and do not shift the burden to the Examiner to provide evidence in support of the Official Notice.

Specifically, the Applicant has reiterated the takings of Official Notice raised by the Examiner, but has not provided adequate information or arguments to create a reasonable doubt regarding the circumstances justifying the Official Notice. Thus, as

explained above, the burden to provide evidence to substantiate the Official Notice is not deemed necessary.

In the previous Office Action mailed December 6, 2005, notice was taken by the Examiner that certain subject matter is old and well known in the art. Per MPEP 2144.03(c), these statements are taken as admitted prior art because no traversal of this statement that created a reasonable doubt regarding the circumstances justifying the Official Notice was made in the subsequent response. Specifically, these instances of Official Notice have been admitted as prior art.

- It is old and well known in the surveying/electoral arts that there are a myriad of issues in any election.
- It is common knowledge that users who have registered for elections are subject to receiving relevant documentation, commonly in electronic formats
- It is old and well known in the art that either a HTTPS protocol or a SSL protocol can be used to handle secure communication between a web server and a web browser. It is common knowledge that the HTTPS protocol typically handles credit card transactions and other sensitive data. It is also common knowledge that the SSL protocol is designed to provide privacy between a web server and a web browser by authenticating the server (and sometimes the client) uses an algorithm to encrypt data. It is old and well known in the art that such security

measures are compatible with web browsers and are used by websites that typically transmit sensitive data.

- It is old and well known in the art that the role of transfer agents in the election process is to store tallied results, or to tally the received votes and determine a winner.
- It is old and well known in the voting arts that in traditional voting systems, votes are tallied at voting centers and the ballots are then sent to a central facility in case of a recount, and that, similarly, electronic voting systems also tally votes, and subsequently forward ballots to a proxy party (such as a transfer agent) for independent recounting and management of ballots to ensure that ballots are not tampered with and to confirm the voting results
- It is old and well known in the art that email messages containing confidential and sensitive data, such as financial information (credit card and bank account numbers), and personal identification (social security numbers) are encrypted and transmitted through a secure connection to a network server.
- It is common knowledge that, if the transfer agent is assigned the responsibility of tallying the votes to determine the winner, then whenever voting information is received during the predetermined voting time period, it should be sent to the transfer agent for tallying. Invalid votes are not taken into consideration when determining the winner.
- It is old and well known in the voting arts that invalid votes need not to be sent to a transfer agent.

- It is common knowledge that elections occur during a predetermined voting period, as they are not indefinite events. It is old and well known in the art that any system used to conduct elections would have some means accepting votes only during the predetermined voting period, disregarding any votes received after this period and ceasing to accept additional completed voting forms. It is old and well known in the voting arts that voters who failed to register or vote during the predetermined voting time will not have their votes tallied in determining the winner. It is common knowledge that eligible nonvoters have no “default” selections, as they did not participate in the election.
- Means of transferring electronic data are old and well known in the art (including electronic data interchange, file transfer protocol, compact disc, floppy disk etc). It is old and well known in the art that the role of transfer agents is to tally all the votes cast for the voting issue, or simply to store results after all votes have been tallied. It is common knowledge that records of elections must be maintained to verify election results, especially in case of recounts. It is also common knowledge that, without a backup copy of the elections, there is the risk of losing existing data (file corruption, hard drive crashing, hacked by external entities, etc.).
- It is old and well known in the computing arts that the essential idea of an Intranet is that it uses Local Area Network (LAN) technologies to facilitate communication between people and improve the knowledge base of an organization's employees. Intranets can include mail servers based on low cost

Internet technology. Two pieces of software must run on the mail server. First, Simple Mail Transfer Protocol (SMTP) server software is required to communicate with other mail servers to transfer mail between mail servers. A Post Office Protocol (POP) server is required to communicate with the end users computers for reading and sending mail. On an Intranet, network administrators can prescribe access and policy for a fixed group of users. Intranets make use of Internet technologies within an organization to achieve better results than the conventional means of data access and transfer, while cutting costs and providing easy and fast access to information. The network firewalls that surround an Intranet prevent unauthorized access. Transfer agents are usually independent parties not in the organization, and would therefore be prohibited from accessing the intranet to view websites or receive email.

- An internal network (such as an Intranet) would be used to deliver email messages and website access to locally networked users, and that an external network (such as the Internet) would be used to deliver email messages to non-local, non-networked users.
- It is old and well known in the art that the role of transfer agents in the election process is to store tallied results, or to tally the votes and determine a winner
- Voting information corresponding to eligible voters is used in producing a voting result. Regardless of who tallies the results, it is an old and well known practice that the process would involve the step of compiling the voting information

(adding received answers to information stored in a database) from the validated voters to produce the voting result.

- It is old and well known in the art that email messages containing confidential and sensitive data, such as financial information (credit card and bank account numbers), and personal identification (social security numbers) are encrypted and transmitted through a secure connection to a network server.
- It is old and well known in the art that Intranets are secure internal networks that can include mail servers based on low cost Internet technology. It is common knowledge that transfer agents are usually independent parties not in the organization, and would therefore be prohibited from accessing the intranet to view websites or receive email, so the use of external networks would inherently be required to deliver email messages.
- It is old and well known in the art that data servers are integral parts of transferring electronic information and data. It is also old and well known in the art that the role of transfer agents in the election process is to store tallied results, or to tally the votes and determine a winner.
- Voting information corresponding to eligible voters is used in producing a voting result. Regardless of who tallies the results, it is an old and well known practice that the process would involve the step of compiling the voting information (adding received answers to information stored in a database) from the validated voters to produce the voting result.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter Choi whose telephone number is (571) 272 6971. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (571) 272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

PC

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